

Appl. No. 10/660,354
Amdt. dated May 17, 2007
Reply to Office action of May 3, 2007

REMARKS/ARGUMENTS

Claims 1-44 and 64-66 were pending and subject to election/restriction. No claims are amended. No Claims are added. Claims 45-63 were canceled previously without prejudice or disclaimer of subject matter. No new matter is added.

Applicants thank the Examiner for his withdrawal of the restriction between Groups I and III from the previous Office Action. Applicants also thank the Examiner for his withdrawal of the requirement for an election of species in the previous Office Action.

In the current Office Action, election of one of the following species is required under 35 USC § 121:

- I. The species of Figure 2A,
- II. The species of Figure 2B, or
- III. The species of Figure 3.

Election/Restriction

Applicants hereby elect the species of Figure 2B. Claims 1-19, 26-32 and 64-66 appear to be generic to this species.

Regarding the requirement for an election of species, Applicants traverse to preserve the requirement for rejoinder of species which depend from or otherwise require all the limitations of allowable generic claims as provided by 37 CFR 1.141. Moreover, Applicants traverse on the grounds that the species, as delineated by the Examiner, are related under the instant disclosure.

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MPEP 806.04(b) provides:

Species, while usually independent, may be related under the particular disclosure. Where inventions as disclosed and claimed are both (A) species under a claimed genus and (B) related, then the question of restriction must be determined by both the practice applicable to election of species and the practice applicable to other types of restrictions such as those covered in MPEP § 806.05 - § 806.05(i). If restriction is improper under either practice, it should not be required.

Here, the species appear to be related. For example, the units of Figures 2A or 2B may be both used in the aircraft embodiment of Figure 3. In this instance, the office action has not established that restriction is proper under "both . . . practices" of MPEP 806.04(b). Applicants therefore submit that the requirement for election of species is improper.

In the event the examiner wishes to discuss any aspect of this response, please contact the attorney at the telephone number identified below.

Respectfully submitted,

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